

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

-

WRIT PETITION NO : 28511 of 1995

Between:

Vutukuri Jeevana Ranga Rao S/o Jagannadha Rao
R/o Bhavanipuram, Crombay Road, Vijayawada

..... PETITIONER

AND

- 1 The Govt. of A.P. rep. by Secretary
Revenue U.C.II Dept., Secretariat Buildings,
Saifabad, Hdyerabad
- 2 The Special Officer & Competent Authority
U.L.C., Vijayawada
- 3 The Chitti Coop. Building Society Ltd., Vijayawada rep. by President
Sri Raghavayya, Eluru Road, Vijayawada

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more especially one in the nature of Writ of Mandamus calling for records leading up to and inclusive of G.O.Ms.No.792 Revenue (U.C.I) Dept. dt: 19-8-93 and the consequential notification under Sec.10(5) dt: 19-1-94 and the related proceedings, which came to light recently and declare the same as illegal, arbitrary, ultra-vires of the procedure under the U.L.C. Act, void ab-initio.

Counsel for the Petitioner: MR.P.SRI RAGHU RAM

Counsel for the Respondent No.1 & 2: GP FOR REVENUE

Counsel for the Respondent No.3 : None present

The Court made the following :

ORDER:

The petitioner, being one of the vendee of the land from the Chitti Co-operative Building Society Limited, has chosen to file the present writ petition aggrieved by the Government Order in G O Ms No. 792 (Revenue (U.C.I) Department dated 19-8-1993, wherein the Government has withdrawn the exemption granted to the said society and also the consequential notice under Section 10(5) of the Urban Land (Ceiling & Regulation) Act, 1976 (for short 'the Act').

The brief facts of the case are as follows:

The land in Sy.No. 73/4 of Bavanipuram village was owned by one Poliseti Venkataratnam. The said Venkataratnam sold 1149 Sq. Mts. of land to the third respondent i.e., Chitti Cooperative House Building Society Limited, Vijayawada under a registered Sale deed dt. 5-4-1982. From the third respondent petitioner, in the entire extent of 1149 sq. Mts., purchased plot No.2 of an extent of 351 sq. yards (293.48 sq. mts.) by way of registered sale deed dt. 2-7-1982 by virtue of the exemption granted by the Government in G.O.Ms.No.1939 dt. 31-12-1981 in favour of Venkataratnam and 3rd respondent as per the provisions of GOMs No.136 Revenue dt. 28-1-1981. After the sale, the petitioner raised a structure and has been living there by paying taxes from 1987 regularly. He also complied with all the provisions of the above G.Os. While so, the petitioner reliably learnt that the 2nd respondent is taking steps to dispossess him from the said plot on the ground that the exemption granted to the society had been withdrawn as per impugned GO Ms. No.792, Revenue (U.C.I) Department dt.19-8-93. Since the petitioner would be the affected person being bonafide purchaser of the property for valuable consideration he is entitled to notice and protection against the illegal actions of the respondents. Hence, the action of the respondents without issuing any notice to the petitioner is

wholly against to the principles of natural justice. Hence, the writ petition.

Denying the averments made in the affidavit filed in support of the writ petition, the respondents filed a detailed counter affidavit describing the particulars as to how the land was assigned to the petitioner and his vendor the third respondent.

The respondents resisted the writ petition mainly on the ground that since the vendor of the petitioner i.e., 3rd respondent and its vendor the declarant have violated the conditions in G.O.Ms.No. 1939 Rev. (UC-I) Department dt.31.12.1981, the Government withdrawn the exemption U/s.20 (2) of the Act and as such the petitioner has no right over the land in question as this is a Government land and hence there is no necessity to issue a notice to the petitioner before taking surplus land from the declarant. It is further contended that the Government issued the cancellation Government Order dt. 19-8-1993 after careful consideration of the over all facts and hence as per the said Government Order the land vest with Government. Since a notification under Section 10(5) was issued on 19-1-1994, there is no any violation of rules framed. Hence, the writ petition is not maintainable.

Learned counsel for the petitioner argued that in view of the fact that the petitioner has purchased the land admeasuring 351 sq. yards (293.48 sq. mts) out of 1149 sq. mts., from the third respondent society, before passing the impugned cancellation Government Order, the Government ought to have issued notice to the petitioner also. Learned counsel further argued that the action of the respondents 1 & 2 in issuing Section 10(5) Notification without issuing any notice to him under Section 10(3) of the Act, the same is arbitrary, improper and violative of the principles of natural justice and hence the impugned Government Order has to be quashed and the consequential action thereof by the respondents 1 & 2 has to be declared null and void.

On the other hand the learned Government Pleader for Revenue appearing for the respondents 1 & 2 opposed the writ petition and contended that since the 3rd respondent society and the petitioner violated the conditions of the Act, the Government has issued the present G.O, and the consequential Notification and

hence the above G.O needs no interference and the writ petition is unsustainable and is liable to be dismissed.

Heard both sides. While admitting the writ petition this Court on 27-12-1995 granted interim stay of dispossession of petitioner from the land in question. As seen from the record, it discloses that the said stay order is still in force till today. From a perusal of the record, it is to be seen that there is no material placed before this Court to show that before passing the impugned Government Order and the Section 10(5) Notification by the Government, a prior notice has been issued to the petitioner who is in occupation of the land in pursuance of his purchase from the third respondent society. Under the above circumstances, it is to be held that that the action of the respondents 1 & 2 is violation of principles of natural justice and hence the impugned Government Order is quashed to the extent of the petitioner herein alone.

Accordingly, the writ petition is allowed as prayed for. No costs.

T. MEENA KUMARI, J

Dt 7-4-2005

Kvrk

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this Thursday, the Seventh day of April, Two thousand and five.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Secretary, Govt. of A.P. Revenue U.C.II Dept.,
Secretariat Buildings, Saifabad, Hdyerabad
- 2 The Special Officer & Competent Authority
U.L.C., Vijayawada
3. Two CCs to GP for Revenue, High Court Buildings, Hyderabad(OUT)
4. 2 CD copies.

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THE HON'BLE SMT JUSTICE T.MEENA KUMARI

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07th April 2005